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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

JANE DOE, as the representative of her
minor son,

Plaintiff,

v.

UNITED BEHAVIORAL HEALTH and
UNITED HEALTHCARE SERVICES,
INC.,

Defendants.

Case No. 4:19-cv-07316-YGR

NOTICE OF RECENT AUTHORITY

Hon. Yvonne Gonzalez Rogers

1 TO THE COURT AND TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

2 Pursuant to Civil Local Rule 7-3(d)(2),¹ Plaintiff Jane Doe submits this Notice of Recent
 3 Authority to bring to the Court's attention the following authority, which was filed after briefing
 4 was completed on the pending cross-motions for summary judgment in this case: Brief of the
 5 Secretary of Labor, as Amicus Curiae Supporting Plaintiff-Appellant, *N.R. v. Raytheon Co., et*
 6 *al.*, No. 20-1639 (1st Cir. Oct. 7, 2020), attached hereto as Exhibit A. This legal authority is
 7 germane to Plaintiff's Motion for Partial Summary Judgment (ECF No. 48) (filed June 1, 2020)
 8 and to the arguments advanced in Plaintiff's Reply in Support of her Motion for Partial Summary
 9 Judgment and Opposition to Defendants' Motion for Partial Summary Judgment (ECF No. 58)
 10 (filed July 13, 2020) and by Plaintiff's counsel at the summary judgment hearing on August 18,
 11 2020. The amicus brief explains, in relevant part, the Department of Labor's position that
 12 because plan exclusions that violate the Employee Retirement Income Security Act of 1974
 13 ("ERISA") are void and unenforceable as a matter of law, Ex. A at 14-17, 21, ERISA
 14 "fiduciaries *always* retain a duty under the statute to disregard plan terms that are inconsistent
 15 with statutory requirements." *Id.* at 20 (original emphasis); *see also id.* (arguing that "neither
 16 plan administrators nor courts can properly resolve benefit claims without regard to ERISA's
 17 provisions, because ERISA specifies that plan terms are operative only to the extent that they
 18 'are consistent with' the statutory provisions" (citing 29 U.S.C. § 1104(a)(1)(D)).

19
 20 Dated: January 5, 2021

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21 s/ Caroline E. Reynolds

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25 PSYCH-APPEAL, INC.

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26 *Counsel for Plaintiff*

27
 28 ¹ Plaintiff acknowledges that Local Rule 7-3(d)(2) refers specifically to "a relevant judicial
 opinion." Nevertheless, Plaintiff believes that the Department of Labor's interpretation of
 ERISA, as explained in its amicus brief, is sufficiently significant and relevant that the brief may
 be helpful to the Court.